

COMMITTEE AMENDMENT FORM

DATE: 11/26/08

COMMITTEE ZONING

PAGE NUM. (S)

ORDINANCE I. D. #08-O-1464-

SECTION (S)

RESOLUTION I. D. #08-R-

PARA.

AMENDS THE LEGISLATION BY ADDING FOURTEEN (14) CONDITIONS.

AMENDMENT DONE BY COUNCIL STAFF 11/26/08

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City Council
Atlanta, Georgia

08-O-1464

AN AMENDED ORDINANCE
BY: ZONING COMMITTEE

Z-08-49
Date Filed: 7-2-08

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. That the Zoning Ordinance of the City of Atlanta be amended, and the maps established in connection therewith be changed so that the following property located at **3089, 3093, 3099, 3107 and 3111 Peachtree Road, N.E.**, be changed from the C-3 (Commercial Residential) District to the MRC-3-C (Mixed Residential Commercial-Conditional) District, to wit:

ALL THAT TRACT or parcel of land lying and Land Lot 99, 17th District, Fulton County, Georgia being more particularly described by the attached legal description and/or survey.

SECTION 2. If this amendment is approved under the provisions of Section 16-02.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Conditional Development", as identified by the use of the suffice "C" after the district designation in Section 1 above, the Director, Bureau of Buildings, shall issue a building permit for the development of the above-described property only in compliance with the attached conditions. Any conditions hereby approved (including any conditional site plan) do not authorize the violation of any district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That the maps referred to, now on file in the Office of the Municipal Clerk, be changed to conform with the terms of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

Conditions for Z-08-49 for 3089, 3093, 3099, 3107 and 3111 Peachtree Rd., N.E.

1. Except as otherwise provided in this condition 1, development will be restricted to the following maximums:

	<u>Non-residential</u>	<u>Residential</u>
Parcel A	85,000 SF	40,000 SF
Parcel B	250,000 SF	100,000 SF
Parcel C	210,000 SF	0 SF
Parcel D	325,000 SF	264,000 SF
Parcel E	<u>120,000 SF</u>	<u>100,000 SF</u>
Total	990,000 SF	504,000 SF

Subject to compliance with all other ordinances, regulations, and conditions applicable to the Parcels, (a) the above densities may be moved from Parcel to Parcel, (b) residential square footage may be exchanged for an equal amount of nonresidential square footage and (c) nonresidential square footage may be exchanged for an equal amount of residential square footage. The total aggregate development on all the Parcels shall not exceed 1,494,000 square feet. Below grade storage areas shall not be included in the calculation of the development maximums in this Condition 1.

2. Parcels A, B, C, D and E will contain an aggregate minimum of 25,000 square feet of landscaped area, including any square feet donated to the City of Atlanta or other qualified entity as park space. That figure will include a publicly accessible landscaped area of not less than 21,250 contiguous square feet on Parcel D, the control of which will remain with Applicant or another private entity.
3. Applicant will require that any hotel and residential association in the development on the site become a member of the Buckhead Area Transportation Management Association (BATMA) prior to the issuance of a certificate of occupancy for each such use. At least one level of each parking garage and parking deck shall be van pool accessible.
4. The Applicant shall provide the maximum of either (a) 25 bicycle parking spaces or (b) the number of bicycle parking spaces required by the City of Atlanta, whichever is greater, in the aggregate on Parcels A, B, C, D and E. These spaces shall be located as close as practicable to the buildings while, in the developer's sole discretion, maintaining the architectural integrity of the buildings and their landscaping and hardscaping schemes.
5. Permanent storm water detention shall be located below grade or will not be visible for the public right-of-way. The project, upon completion, shall release storm water runoff at a rate equal to 65% or less of the predevelopment storm water runoff rate.

6. All dumpsters will be screened from public rights-of-way.
7. Exterior lighting on buildings and parking decks shall be designed, shielded and constructed so as to minimize light spill into single-family areas.
8. Prior to the beginning of demolition of each parcel, a demolition management plan for demolition traffic will be prepared and will be delivered to the Development and Transportation Chair of NPU-B and to the Director of the Bureau of Planning for review. Likewise, prior to the beginning of construction of each parcel, a construction management plan for construction traffic will be prepared and will be delivered to the Development and Transportation Chair of NPU-B and to the Director of the Bureau of Planning for review. Specifically with regard to Parcel D, the plan for construction traffic will be coordinated with the Suzuki School (if it is then located across from Parcel D) to minimize conflicts with school traffic. Evidence of compliance with this condition shall be provided in writing to the Bureau of Planning prior to issuance of a Special Administrative Permit.
9. These conditions of zoning shall be binding upon all successors and assigns of the Applicant. The subdivision, sale, or partition of all or any part of this property shall not alter the obligation of all owners of the property to comply with these conditions of zoning. The Applicant will not request any administrative amendment without providing evidence that notice of such request has been given to the Chair of the Zoning Committee of NPU-B which seeks to:
 - (a) increase the square footage of any building or the number and/or location of parking spaces; except as provided in paragraph 1;
 - (b) change any of the uses or location of said uses specified except as provided in paragraph 1;
 - (c) decrease any required exterior setback or the amount of landscaped area;
 - (d) materially reduce public access or public spaces; or
 - (e) otherwise materially alter these conditions.

The Applicant will have the right to request administrative changes without such notification so long as such changes are required to comply with technical permitting requirements of the City of Atlanta or to address site conditions.

10. The Applicant, with the support of NPU B, shall request and support appropriate legislation that will require that all transportation impact fees generated from this development will be used to mitigate traffic on the streets in the area surrounding the development. Evidence of compliance with these conditions shall be provided in writing to the Bureau of Planning at the initial application for a Special Administrative Permit.

11. Any public commercial dry cleaning facilities shall be a collection facility only and shall not contain dry cleaning equipment except for laundry/dry cleaning facilities within hotels and residential buildings and serving those uses.
12. The developer will use best efforts to ensure that all non-residential buildings will be constructed in a manner designed to limit environmental and energy impacts.
13. All of these narrative conditions shall be printed on the final site plan filed with the City of Atlanta.
14. Within sixty days of completion of demolition of the improvements on a Parcel, the developer shall commence development on the Parcel or plant grass on the entire Parcel as an interim measure.

City Council
Atlanta, Georgia

08-0 -1464

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SECTION 1. That the Zoning Ordinance of the City of Atlanta be amended, and the maps established in connection therewith be changed so that the following property located at **3089, 3093, 3099, 3107 and 3111 Peachtree Road, N.E.**, be changed from the C-3 (Commercial Residential) District to the MRC-3(Mixed Residential Commercial) District, to wit:

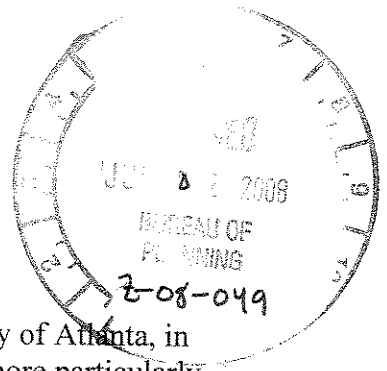
ALL THAT TRACT or parcel of land lying and Land Lot 99, 17th District, Fulton County, Georgia being more particularly described by the attached legal description and/or survey.

SECTION 2. If this amendment is approved under the provisions of Section 16-02.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Conditional Development", as identified by the use of the suffice "C" after the district designation in Section 1 above, the Director, Bureau of Buildings, shall issue a building permit for the development of the above-described property only in compliance with the attached conditions. Any conditions hereby approved (including any conditional site plan) do not authorize the violation of any district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That the maps referred to, now on file in the Office of the Municipal Clerk, be changed to conform with the terms of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

EXHIBIT "A"



TRACT ONE

ALL THAT TRACT OR PACREL of land lying and being in the City of Atlanta, in Land Lot 99 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING of the tract of land herein described, commence at an iron pin found at the intersection of the northeastern right-of-way line of East Paces Ferry Road with the southeastern right-of-way of Peachtree Road (right-of-way width varies); running thence along said right-of-way line of Peachtree Road, north 43 degrees 47 minutes 54 seconds east a distance of 79.08 feet to a point, said point being the **TRUE POINT OF BEGINNING**; **FROM THE TRUE POINT OF BEGINNING** thus established, continuing thence along said right-of-way line, north 43 degrees 46 minutes 46 seconds east a distance of 41.97 feet to an iron pin found; continuing thence along said right-of-way line, north 47 degrees 38 minutes 29 seconds east a distance of 79.16 feet to a ½ -inch open top pipe found; thence leaving the southeastern right-of-way line of Peachtree Road, and running south 53 degrees 54 minutes 01 second east a distance of 102.37 feet to an iron pin set at corner of building; running thence south 32 degrees 45 minutes 25 seconds west a distance of 60.87 feet to an iron pin set at corner of building; running thence south 42 degrees 54 minutes 35 seconds west a distance of 41.79 feet to a point; running thence north 61 degrees 42 minutes 43 seconds west a distance of 123.59 feet to a point located on the southeastern right-of-way line of Peachtree Road and the **TRUE POINT OF BEGINNING**; according to boundary Survey for "3107 Peachtree Road, LLC, a Georgia limited liability company, and Chicago Title Insurance Company," dated March 1, 2006, last revised June 12, 2007, prepared by Conroy & Associates, P.C., under the seal and certification of Daniel F Conroy, Georgia Registered Land Surveyor No. 2350; said tract of land being designed as "Lot C" and "Lot D" and containing a total of 0.29 acres (12,682 square feet) according to said survey, which survey is incorporated herein and made a part hereof by reference.

TRACT TWO

ALL THAT TRACT OF PARCEL of land lying and being in the City of Atlanta, in Land Lot 99 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING of the tract of land herein described, commence at an iron pin found at the intersection of the northeastern right-of-way line of East Paces Ferry Road with the southeastern right-of-way of Peachtree Road (right-of-way width varies); running thence along said right-of-way line of Peachtree Road, north 43 degrees 47 minutes 54 seconds east a distance of 79.08 feet to a point; continuing thence along said right-of-way line, north 43 degrees 46 minutes 46 seconds east a distance of 41.97 feet to an iron pin found; thence leaving the southeastern right-of-way

2-08-049

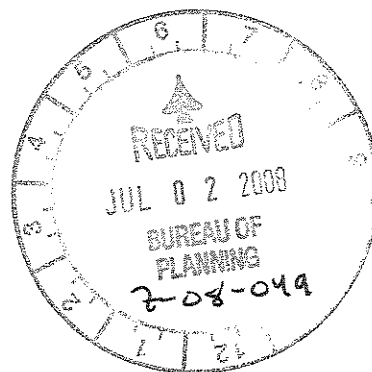
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EXHIBIT "A" - Continued

line of Peachtree Road and running south 61 degrees 42 minutes 37 seconds east a distance of 122.85 feet to an iron pin set at corner of building and the **TRUE POINT OF BEGINNING; FROM THE TRUE POINT OF BEGINNING** thus established, running thence north 32 degrees 45 minutes 25 seconds east a distance of 60.87 feet to an iron pin set at corner of building; running thence south 51 degrees 53 minutes 06 seconds east a distance of 38.90 feet to a point; running thence north 51 degrees 16 minutes 24 seconds east a distance of 64.60 feet to a point located on the northwestern right-of-way line of Bolling Way (50-foot right-of-way); running thence along said right-of-way line, south 03 degrees 46 minutes 53 seconds west a distance of 15.00 feet to a point; thence leaving the northwestern right-of-way line Bolling Way, and running south 51 degrees 16 minutes 24 seconds west a distance of 58.60 feet to a point; running thence south 66 degrees 40 minutes 21 seconds west a distance of 21.00 feet to a point; running thence South 80 degrees 56 minutes 19 seconds west a distance of 48.55 feet to a point, said point being the **TRUE POINT OF BEGINNING**; according to Boundary Survey for "3107 Peachtree Road, LLC, a Georgia limited liability company, and Chicago Title Insurance Company," dated March 1, 2006, last revised June 12, 2007, prepared by Conroy & Associates, P.C., under the seal and certification of Daniel F Conroy, Georgia Registered Land Surveyor No. 2350; said tract of land being designated as "Easement – Deed Book 4356, Page 151" according to said survey, which survey is incorporated herein and made a part hereof by reference.

TOGETHER WITH all of the right, title and interest of Grantor in and to the "Hallway" abutting the easterly boundary line of the above-described Tract One and the southwesterly boundary line of the above-described Tract Two, as shown on the above described Survey.

ALSO TOGETHER WITH all of the right, title and interest of Grantor in and to the "Abandoned Alley" abutting the northerly and northwesterly boundary lines of the above-described Tract Two, as shown on the above described Survey.



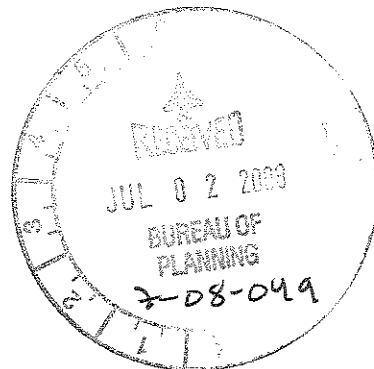
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EXHIBIT "A"

Legal Description

ALL THAT TRACT or parcel of land lying and being in Land Lot 99, 17th District, Fulton County, Georgia, being more particularly shown at survey for 3107 Peachtree Road, LLC and Chicago Title Insurance Company, prepared by Conroy & Associates, P.C., under the seal and certification of Daniel F. Conroy, R.L.S. No. 2350, dated January 28, 2005, revised February 2005 and being more particularly described as follows:

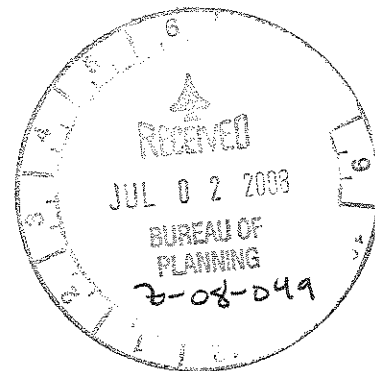
Beginning at a point located on the southeasterly right-of-way line of Peachtree Road 200 feet Northeasterly along said Southeasterly right-of-way line from its intersection with the Northeasterly right-of-way line of East Paces Ferry Road;
THENCE RUNNING North 55 degrees 03 minutes 30 seconds East along the Southeasterly right-of-way line of Peachtree Road, 50.30 feet to a point;
THENCE RUNNING North 52 degrees 17 minutes 00 seconds East along the Southeasterly right-of-way line of Peachtree Road, 49.70 feet to a point;
THENCE RUNNING South 43 degrees 28 minutes 30 seconds East 114.10 feet to a point on the Westerly right-of-way line of Bolling Way;
THENCE RUNNING South 02 degrees 49 minutes 00 seconds West along the Westerly right-of-way line of Bolling Way, 8.30 feet to a point;
THENCE RUNNING South 02 degrees 49 minutes 00 seconds West along the Westerly right-of-way line of Bolling Way 15 feet to a point;
THENCE RUNNING South 54 degrees 04 minutes 00 seconds West 59.30 feet to a point;
THENCE RUNNING North 47 degrees 59 minutes 57 seconds West 11.97 feet to a point;
THENCE RUNNING North 53 degrees 54 minutes 00 seconds West 125 feet to the POINT OF BEGINNING, being .241 acres and having improvements thereon know 3107 Peachtree Road according to the present system of numbering in the City of Atlanta, Fulton County, Georgia being the same property described in that Warranty Deed recorded at Deed Book 17309, Page 009, Fulton County, Georgia Records



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All that tract and parcel of land lying and being in Land Lot 99 of the 17th district of Fulton County, Georgia, and more particularly described as follows:

BEGINNING at an iron pin located on the southeastern side of Peachtree Road 300 feet northeasterly as measured along said Road from the point formed by the intersection of the southeast side of Peachtree Road with the northeast side of East Paces Ferry Road (formerly Decatur Road), and running thence northeasterly along the southeastern side of Peachtree Road 108.6 feet to an iron stake corner marker; thence running in a southerly direction along the western side of Bolling Way 145 feet to an iron pin corner marker; thence running westerly 116.6 feet to the southeastern side of Peachtree Road and the point of beginning, being improved property known as No. 3111 Peachtree Road, N.E., Atlanta, Georgia; except so much thereof as lies within the right-of-way of said Bolling Way, formerly known as East Sardis Way.



2-08-49

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RCS# 2319
8/18/08
9:36 PM

Atlanta City Council

REGULAR SESSION

MULTIPLE 08-O-1464, 1465, 1466, 1467, 1468, 1469, 1470
 08-O-1471, 1472
 REFER ZRB/ZONE

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Hall	NV Fauver	NV Martin	Y Norwood
Y Young	Y Shook	B Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

MULTIPLE